



**BILLING CODE: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 151211999–6343–02]**

**RIN 0648-XF030**

**Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Witch  
Flounder Trimester Total Allowable Catch Area Closure for the Common Pool  
Fishery**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and  
Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; area closure.

**SUMMARY:** This action closes the Witch Flounder Trimester Total Allowable Catch  
Area to Northeast multispecies common pool vessels fishing with trawl gear for the  
remainder of Trimester 2, through December 31, 2016. The common pool fishery is  
projected to have caught 90 percent of its Trimester 2 quota for witch flounder. The  
closure is intended to prevent an overage of the common pool's quota for this stock.

**DATES:** This action is effective [*insert date of filing for public inspection at the Office  
of the FEDERAL REGISTER*], through December 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Liz Sullivan, Fishery Management  
Specialist, (978) 282-8493.

**SUPPLEMENTARY INFORMATION:** Federal regulations at 50 CFR

648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester

Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester.

As of November 1, 2016, the common pool fishery caught approximately 80 percent of the Trimester 2 TAC (2.4 mt) for witch flounder. We project that 90 percent of the Trimester 2 TAC was caught by November 6.

Effective [*insert date of filing for public inspection at the Office of the FEDERAL REGISTER*], the Witch Flounder Trimester TAC Area is closed for the remainder of Trimester 2, through December 31, 2016, to all common pool vessels fishing with trawl gear. The Witch Flounder Trimester TAC Area consists of statistical areas 512, 513, 514, 515, 521, 522, and 525. The area reopens at the beginning of Trimester 3 on January 1, 2017.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to [*insert date of filing for public inspection at the Office of the FEDERAL REGISTER*], it may complete its trip within the Trimester TAC Area.

Any overage of the Trimester 1 or 2 TACs must be deducted from the Trimester 3 TAC. Any uncaught portion of the Trimester 1 and Trimester 2 TACs is carried over into the next trimester. If the common pool fishery exceeds its sub-ACL for the 2016 fishing year, the overage must be deducted from the common pool's sub-ACL for fishing year 2017. However, any uncaught portion of the common pool's sub-ACL may not be carried over into the following fishing year.

Weekly quota monitoring reports for the common pool fishery are on our website

at: <http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm>. We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information, and, if necessary, we will make additional adjustments to common pool management measures.

### **Classification**

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

Regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information only recently became available indicating that common pool catch would reach 90 percent of the Trimester 2 TAC for witch flounder by November 6, 2016. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the Witch Flounder Trimester 2 TAC Area. Delaying the effective date of the closure increases the likelihood that the common pool fishery will exceed its quota of witch flounder to the detriment of this stock, which could undermine management objectives of the Northeast Multispecies FMP.

Additionally, an overage of the common pool quota could cause negative economic impacts to the common pool fishery as a result of overage paybacks in a future trimester or fishing year.

**Authority:** 16 U.S.C. 1801 *et seq.*

**Dated:** November 8, 2016.

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Jennifer M. Wallace,  
Acting Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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